

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA
PITTSBURGH**

| | | |
|-------------------------------|---|----------------------------|
| EUGENE J. McCARTHY, JR., |) | |
| |) | |
| Petitioner, |) | 2:20-cv-00020-MRH |
| |) | |
| v. |) | Chief Judge Mark R. Hornak |
| |) | |
| MARK CAPOZZA, SUPERINTENDENT; |) | |
| and ATTORNEY GENERAL OF THE |) | |
| STATE OF PENNSYLVANIA, |) | |
| |) | |
| Respondents. |) | |

MEMORANDUM OPINION

Eugene J. McCarthy, Jr. (“McCarthy” or “Petitioner”), proceeding pro se, has filed a Petition for Writ of Habeas Corpus by a Person in State Custody (the “Petition”) pursuant to 28 U.S.C. § 2254, challenging his convictions for third degree murder, robbery, and criminal conspiracy. The case was referred to Chief United States Magistrate Judge Cynthia Reed Eddy for a report and recommendation in accordance with 28 U.S.C. § 636(b)(1) and Local Rule of Civil Procedure 72.

On January 24, 2022, Chief Magistrate Judge Eddy issued a Report (ECF No. 26) recommending that the Petition be denied as the claims raised in the Petition were without merit. McCarthy was served with the Report and Recommendation at his listed address of record and was advised that he had until February 11, 2022, to file written objections to the Report and Recommendation. To date, McCarthy has not filed any objections nor has he sought an extension of time in which to do so.¹

¹ If a party does not file timely objections to a magistrate judge’s report and recommendation, the party may lose its right to *de novo* review by the district court, although the

The Court has reviewed the matter and concludes that the Report and Recommendation correctly analyzes the issues and makes a sound recommendation. Accordingly, after *de novo* review of the pleadings and documents in this case, together with the report and recommendation, the report and recommendation will be adopted; the petition will be denied; and a certificate of appealability will not issue as reasonable jurists would not find it debatable that each of McCarthy's claims is without merit. An appropriate Order follows.



MARK R. HORNAK
Chief United States District Judge

Dated: March 18, 2022

cc: Eugene J. McCarthy, Jr.
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court must still give "reasoned consideration" to the magistrate judge's report before adopting it. *Henderson v. Carlson*, 812 F.2d 874, 878-79 (3d Cir. 1987).